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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,319	02/20/2004	Martin Melchior	PO7978/LeA 36,317	2166
157	7590	12/11/2006	EXAMINER	
BAYER MATERIAL SCIENCE LLC			EGWIM, KELECHI CHIDI	
100 BAYER ROAD			ART UNIT	PAPER NUMBER
PITTSBURGH, PA 15205			1713	

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/784,319

Applicant(s)

MELCHIORS ET AL.

Examiner

Dr. Kelechi C. Egwim

Art Unit

1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1,3-5 and 12.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

KELECHI C. EGWIM PH.D.
PRIMARY EXAMINER



Continuation of 11. does NOT place the application in condition for allowance because: Regarding the 112 rejections and the assertion that the "Examiner has set forth no evidence to rebut the Applicants support for the amendment" and that the "Examiner has provided no evidence or reason why one of ordinary skill in the art would conclude that 'preparing a polyurethane' would not necessarily involve reacting the isocyanate groups of the polyisocyanates with isocyanate-reactive groups", applicant is reminded that the polyurethane can be prepared in more than one stage and may already have its isocyanate groups excused before the final polymer is produced. The original description includes embodiments where, for instance, an intermediate polyurethane may be formed and then subsequently reacted with at least one reactant through functionalities other than isocyanate groups. Applicant is attempting to claim an embodiment of the process that is not defined or described in the originally filed specification, wherein, specifically, the "isocyanate groups" of the polyisocyanates are the ones reacted with the "at least one compound".

In reference to the 102 rejections, regarding the argument that in Step (I), "(A1) may only be reacted with the isocyanate-reactive groups of an isocyanate-reactive component consisting of at least one compound selected from (A2)-(A5)", applicant is simply incorrect in the reading of the present claims. The language requiring reaction (A1) with at least one of (A2)-(A5), simply does not exclude reacting (A1) with other compounds other than (A2)-(A5). While the members of the individually groups (A2) to (A5) are closed, the claims as a whole are simply not closed to other reactants. "Reacting ... with" is NOT closed language. Contrary to applicant's assertions, the preamble of the independent claim recites "comprising" NOT "consisting of".

Regarding the remaining steps, again applicant is simple wrong in stating that the "polyurethane (A)" of the present claims does not contain thiol groups. No such language is found in the present independent claim. The remainder of applicant's arguments seen to hinge on this misreading of the claims in their present forms.